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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/638,092	08/11/2003	Kayla A. Poole	DLL953	3359
7590	10/13/2004		EXAMINER	
Sean A. Kaufhold P.O. Box 131447 Carlsbad, CA 92013			LUONG, SHIAN TINH NHAN	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/638,092	Applicant(s) POOLE, KAYLA A.
	Examiner Shian T. Luong	Art Unit 3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on ____.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-20 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. ____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/11/03.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

Claim Rejections - 35 USC § 112

1. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1 and 20, line 8, "second" should be "a second". In claims 3-4 and 20, "said first interior wall extending across a portion of said upper wall" and "said second interior wall extending across a portion of said bottom wall are inaccurate because neither first and second interior walls extend across the upper and bottom walls. The interior walls do not contact the upper wall and bottom wall and hence cannot across a portion of the walls. The limitation in claim 19 has already been recited in claim 20.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillman (US D 486,031). Hillman discloses a holder apparatus for selectively holding a plurality of compact discs and a portable compact disc player, said apparatus comprising a housing including an upper portion and a bottom portion, said upper portion including an upper wall and a first peripheral wall being attached to and extending downward from said upper wall, said bottom portion including a bottom wall and second peripheral wall being attached to and extending upwardly

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from said bottom wall, a pivot member being attached to said first peripheral wall and second peripheral wall for pivotally coupling said upper portion to said bottom portion, a securing assembly being attached to a free edge of said first and second peripheral walls for selectively securing together said free edges, wherein compact discs may selectively be positioned in said housing; and a fastening assembly (the Velcro) on the outer portion of the case selectively fastening a compact disc player to said housing. The securing assembly comprises a zipper extending along a length of said free edges. A first side pocket being positioned in an interior of said upper portion, said first side pocket being formed by a first interior wall attached to said first peripheral wall and being spaced from said upper wall.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hassett (US D 472,706). Hassett discloses a holder apparatus for selectively holding a plurality of compact discs and a portable compact disc player, said apparatus comprising a housing including an upper portion and a bottom portion, said upper portion including an upper wall and a first peripheral wall being attached to and extending downward from said upper wall, said bottom portion including a bottom wall and second peripheral wall being attached to and extending upwardly from said bottom wall, a pivot member being attached to said first peripheral wall and second peripheral wall for pivotally coupling said upper portion to said bottom portion, a securing assembly being attached to a free edge of said first and second peripheral walls for selectively securing together said free edges, wherein compact discs may selectively be positioned in said housing; and a fastening assembly (the zipper) on the outer portion of the case selectively fastening a compact disc player to said housing. The securing assembly comprises a zipper extending along a length of said free edges.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillman in view of Eskandry (US D455,260). Hillman as modified above does not disclose a second pocket with opening opposite of the pivot member and a tethering member. But Eskandry teaches a combined compact disc and multi-media carrying case wherein the case has a pocket on each interior portion of the top and bottom portions. The pockets facing away from each other. In addition, the case has a tether with a flexible loop extending outwardly away from a top or bottom portion. From the teaching of Eskandry, it would have been obvious to provide the tether for attachment to another article and additional pockets within the case of Hillman to store more articles therein.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 8, further in view of Epstein (US Des. 398,777). Hillman as modified above does not disclose a pair of ring members to attach to the elongated flexible members. But Epstein teaches a carrier with an elongated strap attached thereto by means of rings and clips. It would have been obvious to provide such engagement and strap for a user to carry the case. It would also have been an obvious choice of location to place the rings and strap clips at a desired area on the case member such as on the bottom portion of the case.

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8. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillman in view of Epstein (US Des. 398,777). Hillman does not disclose a pair of ring members to attach to the elongated flexible members. But Epstein teaches a carrier with an elongated strap attached thereto by means of rings and clips. It would have been obvious to provide such engagement and strap for a user to carry the case. It would also have been an obvious choice of location to place the rings and strap clips at a desired area on the case member such as on the bottom portion of the case.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 8, further in view of Official Notice. Although Hillman does not show a belt clip, it is conventionally known to provide a clip on a rear surface of a case for ease of transportation by way of attaching the case to a person or other article. It would have been obvious in view of Official Notice to provide a clip on the rear surface of Hillman to facilitate transportation of the case.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 8, further in view Hale (Des. 382, 995) or Lollis (Des. 404,908) and Hillman (Des. 434, 897). Hillman as modified above does not disclose two flaps attached to the carrier. However, Hale or Lollis teaches a continuous flap with Velcro at each end to secure the carrier to a person or article. Although it is not made out two separate flaps, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In addition, Hillman '897 teaches two straps with two ends instead of one continuous strap connected to a carrier. It would

have been obvious in view of Lollis or Hale and Hillman to provide flaps to secure the carrier to an article or to another person.

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable Hillman in view Hale (Des. 382, 995) or Lollis (Des. 404,908) and Hillman (Des. 434, 897). Hillman as modified above does not disclose two flaps attached to the carrier. However, Hale or Lollis teaches a continuous flap with Velcro at each end to secure the carrier to a person or article. Although it is not made out two separate flaps, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In addition, Hillman'897 teaches two straps with two ends instead of one continuous strap connected to a carrier. It would have been obvious in view of Lollis or Hale and Hillman to provide flaps to secure the carrier to an article or to another person.

Allowable Subject Matter

12. Claim 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

13. Claim 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

14. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The **Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648.**

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Donna Monroe at (703) 308-2209.

For applicant's convenience, the official FAX number is (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (703) 308-2039. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

STL
October 8, 2004


Primary Examiner
Shian Luong
Art Unit 3728